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SUPERIOR COURT  
YAVAPAI COUNTY, ARIZONA  
2010 FEB 12 AM 10:34  
JEANNE HICKS, CLERK  
BY: S Smisko ✓

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9 **IN THE SUPERIOR COURT OF STATE OF ARIZONA**

10 **IN AND FOR THE COUNTY OF YAVAPAI**

11 **STATE OF ARIZONA,**

12 **Plaintiff,**

13 **v.**

14 **STEVEN CARROLL DEMOCKER,**

15 **Defendant.**

**Cause No. P1300CR20081339**

**Division 6**

**STATE'S OBJECTION TO  
DEFENDANT'S REQUEST FOR JAMES  
KNAPP'S MEDICAL RECORDS**

16 The State of Arizona, by and through undersigned counsel, in response to the  
17 defendant's Motion to Release Medical Records, opposes the motion and respectfully requests  
18 this Court to deny the motion, for the reasons contained in the following Memorandum

19 **MEMORANDUM OF POINTS AND AUTHORITIES**

20 State courts are generally free to limit the nature and extent of discovery permitted in  
21 criminal cases. *State ex rel. Romley v. Superior Court [Roper, Real Party in Interest]*, 172  
22 Ariz. 232, 238, 836 P.2d 455 (App. 1992) ["Roper"]. However, limitation of discovery is  
23 subject to the United States Supreme Court's decision in *Brady v. Maryland*, 373 U.S. 83  
24 (1963), which entitles a defendant the right of access to any evidence favorable to the defense  
25 and material to either guilt or punishment. *Roper* at 238, 836 P.2d at 461 [emphasis added].  
26

1 Evidence is material if there is a reasonable probability that its disclosure would have altered  
2 the result at trial. Id.

3 The State asserts that the defendant has not met his burden of establishing how the  
4 records are essential to his stated defenses of denial, lack of intent, alibi and mistaken  
5 identity. It is impossible to discern how the requested records are relevant or material in this  
6 case.  
7

8 Mr. Knapp's Mayo Clinic medical records are not going to show: (1) that the he  
9 allegedly lied to police about his knowledge of and interactions with the defendant; (2) that  
10 he was the first person on the murder scene; (3) that he committed suicide some 6 months  
11 after the murder; or (4) that he had unrestricted access to the crime scene.

12 Under Arizona Rules of Evidence, Rule 401, relevant evidence is defined as evidence  
13 that has "any tendency to make the existence of any fact that is of consequence to the  
14 determination of the action more probable or less probable than it would be without the  
15 evidence." For evidence to be relevant there must be a "reasonable connection" between the  
16 evidence and the current issue or charge. *State v. Pope*, 113 Ariz. 22, 26, 545 P.2d 946, 950  
17 (1976), citing *State v. Wayman*, 104 Ariz. 125, 449 P.2d 296 (1969) (in an indecent exposure  
18 prosecution, the court refused to allow the defense to question the witnesses about their prior  
19 sexual relationships). The evidence to be admitted must be relevant to the issues at trial.  
20  
21 *State v. Munguia*, 137 Ariz. 69, 668 P.2d 912, 914 (App. 1983).  
22

23 A murder defendant's right to cross-examine witnesses against him was not violated  
24 by the trial courts decision refusing pre-trial disclosure of victim's medical records. The  
25 victim, who was deceased, did not testify and thus there was no reason to discredit his ability  
26 to actually perceive events. The Confrontation Clause rights were trial rights that did not

1 afford defendant the right to pre-trial discovery of victim's medical records. *State v Connor*,  
2 215 Ariz. 553, 162 P.3d 596, (2007).

3 **Conclusion:**

4 James Ralph Knapp died months after this murder and his dated medical records  
5 contain no evidence that could dis-credit his ability to actually perceive events relative to the  
6 case. Once the physician-patient privilege attaches, it prohibits not only testimonial  
7 disclosures in court, but also pre trial discovery of information within the scope of the  
8 privilege. *Connor*, supra.

9 The Defendant has failed to offer a single shred of proof that Knapp's medical  
10 records are relevant or material to the case. The attempt to discover his unrelated medical  
11 records is nothing more than a fishing expedition.

12 The State respectfully requests the Court to Deny Defendant's Motion for the Release  
13 of Medical Records for James Knapp.

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15  
16  
17 RESPECTFULLY SUBMITTED this 11<sup>th</sup> February, 2010.

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21  
22 Sheila Sullivan Polk  
YAVAPAI COUNTY ATTORNEY

23  
24 By: 

25 Joseph C. Butner  
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COPIES of the foregoing delivered this  
14<sup>th</sup> day of February, 2010 to:

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By: R. J. Subb